

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

DONALD BOYSEL, JR.

Plaintiff,

v.

//

CIVIL ACTION NO. 1:14CV8
(Judge Keeley)

J. FACEMIRE, C.O. II,
MELISSA BUNNER,
JIM RUBENSTEIN, Commissioner,
JOSEPH DELONG,
JOSEPH THORNTON,
AMANDA GUMP,
WV DEPT OF MILITARY AFFAIRS AND PUBLIC SAFETY,
GEORGE TRENT, Jr.,
WEST VIRGINIA REGIONAL JAIL AUTHORITY,
JOSEPH DELONG, Executive Director, WVRJA,
PRIME CARE MEDICAL,
MELISSA BUNNER, Medical Administrator at NCRJ,
JANE DOE NURSING STAFF MEMBER,
WV DIVISION OF CORRECTIONS,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 19]

On April 21, 2014, the pro se petitioner, Donald Boysel, Jr. ("Boysel"), filed an amended complaint seeking damages pursuant to 42 U.S.C. § 1983, which the Court referred to United States Magistrate Judge Robert W. Trumble for initial screening and a Report and Recommendation ("R&R") in accordance with LR PL P 2.

On December 10, 2014, Magistrate Judge Trumble issued a R&R, in which he recommended as follows:

(1) that the plaintiff's claims against Melissa Bunner, Jim Rubenstein, Joseph Delong, Joseph Thornton, Amanda Gump, the West Virginia Department of Military Affairs and Public Safety, George

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Trent, the West Virginia Regional Jail Authority, Prime Care Medical, and the West Virginia Division of Corrections be dismissed with prejudice;

(2) that the plaintiff's claim against defendant J. Facemire proceed, and that he be served with a copy of the summons and complaint through the United States Marshal Service;

(3) that the plaintiff be afforded thirty days from entry of this Report and Recommendation to identify the Jane Doe Nursing Staff; and

(4) that, in the event he failed to do so, those defendants be dismissed without prejudice.

The R&R also specifically warned Boysel that his failure to object to the recommendation would result in the waiver of any appellate rights he might otherwise have. *Id.* at 10-11. No objections have been filed.¹ Consequently, after careful review and finding no clear error, the Court

- **ADOPTS** the Report and Recommendation in its entirety (Dkt. No. 19);

¹ The failure to object to the Report and Recommendation not only waives the appellate rights in this matter, but also relieves the Court of any obligation to conduct a *de novo* review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).

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- **ORDERS** that Boysel's claim against Officer J. Facemire proceed, and **DIRECTS** the United States Marshal Service to serve Facemire with a copy of the summons and complaint;
- **ORDERS** that the claims against Melissa Bunner, Jim Rubenstein, Joseph Delong, Joseph Thornton, Amanda Gump, the West Virginia Department of Military Affairs and Public Safety, George Trent, the West Virginia Regional Jail Authority, Prime Care Medical, and the West Virginia Division of Corrections be **DISMISSED WITH PREJUDICE**; and
- **ORDERS** that the claim against the Jane Doe Nursing Staff be **DISMISSED WITHOUT PREJUDICE**.

It is so **ORDERED**.

Pursuant to Fed. R. Civ. P. 58, the Court directs the Clerk of Court to enter a separate judgment order and to transmit copies of both orders to counsel of record and to the pro se petitioner, certified mail, return receipt requested.

Dated: December 14, 2015.

/s/ Irene M. Keeley

IRENE M. KEELEY

UNITED STATES DISTRICT JUDGE